



# Shelby County Tennessee

Mark Luttrell, Jr. Mayor

## **Request for Proposal Shelby County Government Purchasing Department**

160 N. Main, Suite 550  
Memphis, TN 38103

*Issued: March 15, 2013*

**Due: April 5, 2013 no later than 4:00 P.M. (Central Standard Time)**

**RFP # 13-003-55**

### **HP NONSTOP HARDWARE AND SOFTWARE SUPPORT SHELBY COUNTY INFORMATION TECHNOLOGY SERVICES**

Shelby County Government is soliciting written proposals, on a competitive basis from qualified companies to provide HP NonStop Hardware and Software Support Services to Shelby County Government. The RFP is located on the County's website at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov). Go to Online Services and click on "Purchasing Bids" to locate the above-described RFP. If you do not have access to the Internet and require us to send you a hard copy of the RFP, please call us at (901) 222-2250 to request a copy.

The proposal, as submitted, should include all estimated costs related to the services requested by the RFP specifications. If selected, your proposal will be the basis for negotiating a contract with Shelby County Government. Your proposal must be received in the Shelby County Purchasing Department no later than 4:00 p.m. on Monday, April 5, 2013. Proposals should be addressed to:

Nelson Fowler, Manager A  
Shelby County Government  
Purchasing Department  
160 N. Main St., Suite 550  
Memphis, TN 38103

The package containing an original (clearly identified as original) and four (4) copies and a digital CD of your proposal must be sealed and marked with the Proposer's name and **"CONFIDENTIAL, HP NONSTOP HARDWARE AND SOFTWARE SUPPORT, RFP # 13-003-55"** on the outside.

Sincerely,

Nelson Fowler, Manager A  
Shelby County Government  
Purchasing Department

Cc: Steve Solaas, Information Technology Services

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*Note: Please make sure you pay close attention to Sections: I-V, IX & XI. These sections will clearly outline what information is required to properly respond and prepare your RFP response.*

## I. INTRODUCTION

Shelby County Government (the “County”) is seeking proposals from qualified firms to supply HP NonStop hardware and software support for the County (the “Services”). This Request for Proposal (“RFP”) is being released to invite qualified firms to prepare and submit proposals in accordance with instructions provided where one or more successful candidate will be selected and invited to enter into a contractual relationship with Shelby County for the Services outlined in this RFP. In this RFP, the terms Proposer and Contractor are used interchangeably unless the context indicates otherwise.

## II. MINIMUM PROPOSER REQUIREMENT

### **All Proposers must:**

1. Have all appropriate licenses and certifications required to perform the Services in the State of Tennessee and provide copies of same.
2. Provide three (3) reference accounts for Services proposed with similar HP NonStop profile to the County, who the proposer has serviced in the last (5) years.
3. Respond fully to the attached pricing schedule(s).
4. Demonstrate to the County’s satisfaction, prior to award, that it has the financial capability, resources, manpower, and equipment to perform the Services effectively.
5. Meet all requirements for the performance of the Services in accordance with the provisions of this RFP.
6. Apply and qualify for an Equal Opportunity Compliance (EOC) certification number thru our EOC Administration (see the details outlined in Section V11 General Requirements i.e. Selection Criteria.).
7. Adhere to all Title VI requirements and provide proof/documentation if necessary.
8. A written statement of compliance to Title VI and the Living Wage Ordinance must be provided with your response. Please see page 8, item I for the Living Wage Ordinance
9. Provide a performance bond in the amount of fifty (50%) percent of the amount of the Contract.
10. Independent contractors (sole proprietors) must adhere to State of Tennessee Public Chapter No.436, know as the “Tennessee Lawful Employment Act (effective date of 1/1/2012). Proof and documentation of employment eligibility must be included with the proposal.
11. **Provide proof of the minimum insurance requirements (MANDATORY, please review closely.)**

**Please Note:** *As a part of doing business with Shelby County, each individual, company, or organization is required to obtain an “Equal Opportunity Compliance” certification number prior to submitting your response.*

*You can access the online application to receive the numbers indicated above at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov) and click the link “Vendor Registration.” Please download the application instructions and read thoroughly prior to accessing the application.*

*If you have any questions regarding the application, you may contact Purchasing at (901) 222-2250 or the EOC Administration at (901) 222-1100.*

### III. CORRESPONDENCE

All correspondence, proposals, and questions concerning the RFP are to be submitted to:

Nelson Fowler, Manager A  
Shelby County Government  
160 N. Main St. Suite 550  
Memphis, TN 38103

*Respondents requesting additional information or clarification are to contact Mr. Nelson Fowler in writing at [nelson.fowler@shelbycountyttn.gov](mailto:nelson.fowler@shelbycountyttn.gov) or at the address listed above. Questions should reference the section of the RFP to which the question pertains and all contact information for the person submitting the questions. **IN ORDER TO PREVENT AN UNFAIR ADVANTAGE TO ANY RESPONDENT, VERBAL QUESTIONS WILL NOT BE ANSWERED.** The deadline for submitting questions will be Monday, March 18, 2013 by 12:00 p.m. (CST). These guidelines for communication have been established to ensure a fair and equitable process for all respondents.*

*Please be aware that contact with any other personnel (other than the person clearly identified in this document) within Shelby County regarding this RFP may disqualify your company from further consideration.*

### IV. PROPOSAL SUBMISSION & DEADLINE

All proposals must be received at the address listed above no later than **Friday , April 5, 2013 @ 4:00 p.m. (CST)**. Facsimile or e-mailed proposals will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals may not be opened and considered.

### V. PROPOSAL TIMELINE

Shelby County reserves the right to modify this timeline at any time. If the due date for proposals is changed, all prospective Proposers shall be notified.

<b>Request for Proposals Released</b>	<b>Friday, March 15, 2013</b>
<b>Proposal Due Date</b>	<b>Friday, April 5, 2013</b>
<b>Notification of Award</b>	<b>May, 2013</b>
<b>Services to Commence</b>	<b>Upon execution of the contract</b>

The County may reproduce any of the Proposer's proposal and supporting documents for internal use or for any other purpose required by law.

## **VI. PROPOSAL CONDITIONS**

### **a. Contingencies**

This RFP does not commit the County to award a contract. The County reserves the right to accept or reject any or all proposals if the County determines it is in the best interest of the County to do so. The County will notify all Proposers, in writing, if the County rejects all proposals.

### **b. Modifications**

The County reserves the right to issue addenda or amendments to this RFP.

### **c. Proposal Submission**

To be considered, all proposals must be submitted in the manner set forth in this RFP. It is the Proposer's responsibility to ensure that its proposals arrive on or before the specified time.

### **d. Incurred Costs**

This RFP does not commit the County to pay any costs incurred in the preparation of a proposal in response to this RFP and Proposers agree that all costs incurred in developing this RFP are the Proposer's responsibility.

### **e. Final Authority**

The final authority to award a contract rests solely with the Shelby County Purchasing Department.

### **f. Proposal Validity**

Proposals submitted hereunder will be firm for at least ninety (90) calendar days from the due date unless otherwise qualified.

### **g. Disclosure of Proposal Contents**

Provider understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data, or other information supplied to the County is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee. All proposals and other materials submitted become the property of Shelby County Government. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and before the time of a Notice of Intent to Award is issued. Thereafter, proposals will become public information.

### **h. LOSB**

The County encourages the utilization of locally owned small businesses as sources of subcontract work. The County notifies all respondents that all firms and/or individuals shall

comply with the regulations relative to nondiscrimination in federally assisted programs of the Title VI of the Civil Rights Act of 1964, as amended.

### **LOCALLY OWNED SMALL BUSINESS PURCHASING PROGRAM RULES AND REGULATIONS:**

(i) The Administrator of Purchasing in conjunction with the Administrator of EOC shall identify certain goods and services required by the County to be set aside for special purchasing procedures for locally owned small businesses.

(ii) Only certified locally owned small businesses will be allowed to submit competitive bids on the goods or services identified under paragraph (i) above.

(iii) The Administrator of Purchasing shall, in conjunction with the Administrator of EOC, annually review the Shelby County Capital Improvement Program to determine those projects with a construction cost of \$250,000 or more. Contracts amounting to at least ten (10%) of the construction costs of such project shall be awarded to locally owned small businesses as defined herein, except as set forth in sub-paragraph (vi) of this section, either as part of the conditions of the solicitation for general contractors bidding on these projects, or as separate bids issued by the County for subcontracts that may be assigned to general contractors.

(iv) After adhering to all other bidding and purchasing requirements of the County, not inconsistent with this part, if no bids are received from locally owned small businesses, then the County may solicit bids for the goods or services from all other sources.

(v) On all purchases and/or contracts entered into by the County, the Purchasing Administrator or his or her designee shall have the right to negotiate with any supplier of goods or services to the County for the inclusion of locally owned small business subcontractors and/or suppliers in the contract award.

(vi) Failure by a supplier or contractor to include locally owned small business subcontractors or suppliers in its bid or contract may be grounds for rejection of said bid or contract unless the supplier or contractor can show documented evidence of good cause why none were included.

(vii) Any locally owned small business awarded a contract or purchase order under this section shall not sublet, subcontract, or assign any work or services awarded to it without the prior written consent of the Mayor or the Purchasing Administrator.

(viii) As to those purchases below the requirement for a formal bid solicitation (currently, under \$15,000) and not included in the locally owned small business set aside, the Administrator of Purchasing shall determine if any locally owned small business offers that product or service. If so, at least one such eligible locally owned small business should be included in the vendors contacted for an opportunity to bid, and the Administrator of Purchasing may, at his discretion, designate in a purchase order the purchase of such goods and services from the identified locally owned small business.

(ix) In those situations where a locally owned small business as defined herein, engages in open competitive bidding for County contracts, the Administrator of Purchasing shall provide for a preference for the locally owned small business where responsibility and quality are equal. Said preferences shall not exceed five percent (5%) of the lowest possible bidder meeting specifications. The preference shall be applied on a sliding scale in the following manner:

- a. A preference of up to five percent (5%) shall be allowed for contracts up to \$500,000.00;

- b. A preference of up to three and five-tenths percent (3.5%) shall be allowed for contracts up to \$750,000.00;
- c. A preference of two and one-half percent (2.5%) shall be allowed for contracts up to \$1,000,000.00;
- d. A preference of two percent (2%) shall be allowed for contracts that exceed \$1,000,000.00.

(x) For construction contracts over \$2,000,000.00, the Administrator of Purchasing shall provide for a preference of two percent (2%) to general contractors meeting the requirements of Section 1, Subparagraph B, if fifty percent (50%) or more of the total work comprising the bid has been or will be awarded to certified locally owned small businesses. The fifty percent subcontracting threshold must be met prior to contract execution

(xi) The Administrator of Purchasing may divide a single bid package for any purchase of goods and services into two or more smaller bid packages in any case that the Administrator of Purchasing reasonably believes that the smaller bid packages will result in a greater number of bids by locally owned small businesses.

(xii) The Administrator of Purchasing, upon approval of the County Mayor, may establish special insurance and bonding requirements for certified locally owned small businesses so long as they are not in conflict with the laws of the State of Tennessee.

(xiii) The Administrator of Purchasing, with the approval of the County Mayor, shall adopt and promulgate, and may from time to time, amend rules and regulations not inconsistent with the provisions of this ordinance, governing the purchase of goods and services from locally owned small business concerns to effectuate and implement the Locally Owned Small Business Purchasing Program within the intent of this ordinance.

(xiv) The Administrator of EOC shall, in conjunction with the Administrator of Purchasing, provide a written quarterly report to the Mayor and Board of Commissioners which shall include a summary of the purchases selected for this program, a listing of the contracts awarded to locally owned small businesses for the period, and the dollar amounts of each such contract, and the percentage which such contracts bear to the total amount of purchases for the period.

#### **i. Living Wage/Prevailing Wage**

Shelby County Government Ordinance #328 “Living Wages” is hereby incorporated into this Request for Proposal and any resulting contract. Please make sure that you review and apply the requirements of the ordinance to your proposal response. Failure to do so will result in disqualification from the review and award process. You may view and print the ordinance as a separate attachment for this RFP (***please do not forget to download ALL the additional attachments***).

**Prevailing Wage** – Any firm, individual, partnership or corporation awarded a contract by the COUNTY for the construction of, improvement, enlargement, alteration or replacement of a public work or project in excess of \$500,000 and any subcontractors of such public work or project in excess of \$100,000 (“Recipient”) shall be required to pay local prevailing wages and benefits for laborers,



mechanics, or other listed classifications as defined by the Tennessee Department of Labor. The prevailing wage rate shall be the most current State of Tennessee prevailing wage established by the Tennessee Department of Labor For Region 1 (Shelby County). The benefit rates shall be the most current rates described in the published schedule by the Memphis and West Tennessee Building and Construction Trades Council, except as otherwise provided in the Shelby County Code of Ordinances. The applicable rate shall be determined at the time that the project is awarded. In instances where Prevailing wage applies, Prevailing Wage will override the Living Wage requirement.

**j. Non-Discrimination and Title VI**

The contractor hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the contractor on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The contractor shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

Any recipient entity shall be subject to the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and regulations promulgated pursuant thereto. It shall develop a Title VI implementation plan with participation by protected beneficiaries as may be required by such law or regulations. To the extent applicable, such plan shall include Title VI implementation plans sub recipients of federal funds through the entity. The contractor shall produce the plan upon request of Shelby County Government. Failure to provide same shall constitute a material breach of contract.

**VII. GENERAL REQUIREMENTS**

**A. Background**

Shelby County Government is soliciting written proposals on a competitive basis from qualified companies to provide HP NonStop hardware and software support Services to Shelby County Government.

**B. Scope of Contract**

The County wishes to engage in a contractual relationship with the best-qualified provider selected through a competitive process that will work well with the County in the performance of the Services in a manner that is cost-effective and practical. The provider must be prepared to begin immediately upon receipt of a Notice to Proceed.

**C. Project Time Frame**

The initial contract term will begin July 1, 2013 thru June 30, 2014 with an option to renew for two (2) additional one-year periods.

#### **D. Reservation of Rights**

The County reserves the right, for any reason to accept or reject any one or more proposals, to negotiate the term and specifications for the services provided, to modify any part of the RFP, or to issue a new RFP.

The County may at any reasonable time, at its expense, make an audit of the Contractor's books relative to the Accounts.

#### **E. Selection Criteria**

Each response will be evaluated on the criteria outlined in Section XII of this document. Each bidder should set out in its response to this RFP to clearly identify the qualifications of its company and each individual who will work on this project.

*During the evaluation process, Shelby County Government reserves the right to consider the vendor's EOC rating in the evaluation.*

#### **F. Additional Information and References**

Proposers must include a list of three (3) clients with similar Hp NonStop profile to the County who the proposer has serviced within the last five (5) years. Any additional information that would be helpful to the County in evaluating a proposal should be provided.

### **VIII. AWARD OF CONTRACT**

Proposers are advised that the lowest cost proposal will not necessarily be awarded the contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor.

### **IX. PURPOSE**

Shelby County Government is soliciting written proposals, from qualified companies to provide HP NonStop Hardware and Software Support Services to information Technology Services. Establish both hardware maintenance and software support agreements for HP NonStop S-Series Computer systems that support a large number of mission critical applications including Motor Vehicle Registration, Courts Systems, Jail Management, etc... Proposers may respond to sections A or B (below) or both.

#### **A. HP NonStop Hardware Maintenance Requirements.**

1. Attachment I pricing sheet must be used.
2. Support for all product numbers listed in Attachment I is required. This constitutes an all or none support requirement.
3. Pricing must be submitted by product, showing unit price and extended price.
4. Additional information concerning pricing may be submitted as an addendum.

5. Respondents must submit a brief outline of their maintenance strategies, service hours, levels of Service, etc. It is assumed that the submitted contracts will have detailed information relating to service levels.
6. Provisions for contract adjustments (adding or removing equipment) must be available during the contract term and should be outlined in detail.
7. Local Memphis area service personnel and facilities are required.
8. During normal support hours, a service engineer must be on site within a maximum of four (4) hours after a request for service has been placed on critical hardware.
9. Proposals must include pricing for, 8:00 to 5:00 CST, Monday - Friday service.
10. Schedule Preventative Maintenance (PM) that is comprised of remedial maintenance for CPU's, enclosure components, tape drives, disk drives and printers is required.
11. System 'Dial-Out' event reporting is mandatory over secure Internet connection and must be included as a system console function.
12. Vendor support personnel's VPN ability for problem identification and resolution is required.
13. The Bidder must provide either a toll-free or phone number located within the local calling area for Memphis, TN. for service calls and system dial-out.
14. Afterhours service must be provided as requested and a service engineer must be on site within a maximum of four (4) hours after a request for service on critical hardware.
15. Complete system diagnostic is required. Shelby County will not assume any liability for any legal issues that may arise as a result of any proprietary diagnostic software. All responding vendors must submit a statement(s) guaranteeing that complete diagnostic software capabilities are available on all products specified in Attachment I and Attachment II, and that the responding vendor(s) will assume total responsibility for usage of the diagnostic software.

**B. HP NonStop Software Maintenance Requirements.**

1. Attachment II pricing sheet must be used.
2. Support for all product numbers listed in Attachment II is required. This constitutes an all or none support requirement.
3. Pricing must be submitted by product, showing unit price and extended price
4. Additional information concerning pricing may be submitted as an addendum.
5. Respondents must submit a brief outline of their software support strategies, service hours, levels of service, etc. It is assumed that the submitted contracts will have detailed information relating to service levels.
6. Provisions for contract adjustments (adding or removing software) must be available during the contract term and should be outlined in detail.
7. For service calls during normal business hours, the Bidder must respond (return call) within one (1) hour from the time of the originating service call for critical software.
8. For non-critical service calls, the Bidder must respond (return call) within four (4) hours from the time of the originating service call.
9. Proposals must include pricing for "standard, 8:00 to 5:00 CST, Monday - Friday" service.
10. The Bidder must provide either a toll free phone number or a phone number located within the local calling area for Memphis, TN. for service calls.

11. Bidder shall provide one phone number for service on all software listed in Attachment II.
12. Support should include cost free upgrades to Guardian OS, known fixes, and updates to software listed in Attachment II.

## **X. CONTRACT REQUIREMENTS**

The successful Proposer will be expected to enter into a contract incorporating the following terms and conditions, and such additional terms and conditions standard to services of this type.

### **A. General Requirements**

1. Control. All services by the Contractor will be performed in a manner satisfactory to the County, and in accordance with the generally accepted business practices and procedures of the County.
2. Contractor's Personnel. The Contractor certifies that it presently has adequate qualified personnel to perform all services required under this Contract. All work under this Contract will be supervised by the contractor. The Contractor further certifies that all of its employees assigned to serve the County have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Consultant who, in the opinion of the County, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with services under this Contract.
3. Independent Status. (a) Nothing in this Contract shall be deemed to represent that the contractor, or any of the contractor's employees or agents, are the agents, representatives, or employees of the County. The Contractor will be an independent consultant over the details and means for performing its obligations under this Contract. Anything in this Contract which may appear to give County the right to direct the Contractor as to the details of the performance of its obligations under this Contract or to exercise a measure of control over the Contractor is solely for purposes of compliance with local, state and federal regulations and means that the Consultant will follow the desires of the County only as to the intended results of the scope of this Contract.  
  
(b) It is further expressly agreed and understood by Contractor that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the County; that the contractor has been retained by the County to perform the services specified herein (not hired) and that the remuneration specified herein is considered fees for services performed (not wages) and that invoices submitted to the County by the Contractor for services performed shall be on the Consultant's letterhead.
4. Termination or Abandonment. (a) It shall be cause for the immediate termination of this Contract if, after its execution, the County determines that either:
  - i. The Contractor or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting.

ii. The Contractor has subcontracted, assigned, delegated, or transferred its rights, obligations or interests under this Contract without the County's consent or approval.

iii. The Contractor has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of Contractor's assets.

(b) The County may terminate the Contract upon five (5) days written notice by the County or its authorized agent to the Contractor for Contractor's failure to provide the services specified under this Contract.

(c) This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination. In the event of such termination, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date; however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned as of the date of termination.

(d) All work accomplished by Contractor prior to the date of such termination shall be recorded and tangible work documents shall be transferred to and become the sole property of the County prior to payment for services rendered.

(e) Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Contractor and the County may withhold any payments to Consultant for the purpose of setoff until such time as the exact amount of damages due the County from the Contractor is determined.

5. Subcontracting, Assignment or Transfer. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation, or transfer shall relieve the Contractor from performance of its duties under this contract. The County shall not be responsible for the fulfillment of the Contractor's obligations to its transferors or sub-contractors. Upon the request of the other party, the subcontracting, assigning, delegating, or transferring party shall provide all documents evidencing the assignment.

6. Conflict Of Interest. The Contractor covenants that it has no public or private interest, and will not acquire directly or indirectly any interest, which would conflict in any manner with the performance of its services. The Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the County as wages, compensation, or gifts in exchange for acting as officer, agent, employee, sub-contractor to the Contractor in connection with any work contemplated or performed relative to this Contract.

7. Covenant against Contingent Fees. The Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making

of this Contract. For breach or violation of this warranty, the County will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

8. Employment of County Workers. (a) The Contractor will not engage, on a full or part-time, or other basis during the period of the Contract, any professional or technical personnel who are in the current employment of the County.

(b) Notwithstanding the foregoing, no prior County official or employee may be employed by or receive compensation, wages or benefits from the Contractor for a period of one year from employment separation from the County if during the period of employment with the County the employee or official had any direct or indirect involvement with the Contractor's services or operations provided to the County.

9. Arbitration. Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the Consultant and the County will be referred to the Shelby County Contract Administrator or his/her duly authorized representative, whose decision regarding same will be final.

10. General Compliance with Laws. (a) If required, the Contractor shall certify that it is qualified and duly licensed to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

(b) The Contractor is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, the Americans with Disabilities Act (ADA), and all state and local laws, rules and regulations pertaining to electrical requirements of residential construction and renovation.

(c) This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this contract the Contractor agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

11. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall upon request show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

12. Entire Agreement. This Contract contains the entire Contract of the parties and there are no other promises or conditions in any other Contract whether oral or written. This Contract supersedes any prior written or oral Contracts between the parties.

13. Amendment. This Contract may be modified or amended, only if the amendment is made in writing and is signed by both parties.

14. Severability. If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid, or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a provision as similar in terms to such unlawful, invalid, or unenforceable provision as may be possible, and be legal, valid, and enforceable.

15. No Waiver of Contractual Right. No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

16. Matters To Be Disregarded. The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

17. Subject To Funding. This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the term hereof, then this Contract will be terminated. In the event of such termination, the consultant shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date.

18. Travel Expenses. All travel expenses payable under this Contract shall be in accordance with the County Travel Policy and Procedures. This includes advance written travel authorization, submission of travel claims, documentation requirements, and reimbursement rates. The County will make no travel advances.

19. Incorporation of Other Documents. (a) Contractor shall provide services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for the Shelby County Purchasing Department and incorporated herein by reference.

(b) It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions

contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

20. Contracting With Locally Owned Small Businesses. The Contractor shall take affirmative action to utilized Locally Owned Small Businesses when possible as sources of supplies, equipment, construction and services.

21. Incorporation Of Whereas Clauses. The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

22. Waiver of Proprietary Interest. Notwithstanding anything to the contrary contained herein or within any other document supplied to County by the Contractor, Contractor understands and acknowledges that County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to County by Consultant due to services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

23. Organization Status and Authority. (a) Contractor represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

(b) The execution, delivery and performance of this Contract by the Contractor has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Contractor, any provision of any indenture, agreement or other instrument to which the Contractor is a party, or by which the Contractor's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

24. Warranty. The Contractor warrants to the County that all Services shall be performed in accordance with acceptable standards in the industry applicable to the Services. The Contractor shall correct, at its sole cost and expense, any work reasonably deemed to be unsatisfactory by the County. The Contractor warrants to the County that all Services shall be in strict compliance with the terms of this Contract, and all applicable governmental laws, rules and regulations.

25. Rights in Data. The County shall become the owner, and the Contractor shall be required to grant to the County, or its successors, a perpetual, non-exclusive, non-transferable, royalty-free right, in the County's name, to use any deliverables provided by the Contractor under this Contract, regardless of whether they are proprietary to the Contractor or to any third parties.

#### **A. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

1. Responsibilities for Claims and Liabilities. (a) Contractor shall indemnify, defend, save and hold harmless the County, and its elected officials, officers, employees, agents, assigns, and



instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the duties hereunder, whether performed by the Contractor its sub-contractors, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.

(b) The Contractor expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, defend, save and hold harmless the County or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.

(c) The County has no obligation to provide legal counsel or defense to the Contractor or its sub-contractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor as a result of or relating to obligations under this Contract.

(d) Except as expressly provided herein, the County has no obligation for the payment of any judgment or the settlement of any claims against the Contractor as a result of or relating to obligations under this Contract.

(e) The Contractor shall immediately notify the County, c/o Shelby County Government, Contracts Administration, 160 N. Main Street, Suite 550, Memphis, TN 38103, of any claim or suit made or filed against the Contractor or its sub-contractors regarding any matter resulting from or relating to Consultant's obligations under this Contract and will cooperate, assist and consult with the County in the defense or investigation thereof.

2. Insurance Requirements. The Contractor will provide evidence of the following Insurance coverage:

## **PROFESSIONAL SERVICES/CONSULTANT PROJECTS LESS THAN \$1,000,000**

### ***Minimum Limits of Insurance***

Contractor/provider shall maintain coverage with limits of no less than:

- 1) *Commercial General Liability Insurance* - minimum of: \$1,000,000 limit per occurrence bodily injury and property damage/\$1,000,000 personal and advertising injury /\$2,000,000 General Aggregate/ \$2,000,000 Products-Completed Operations Aggregate. Shelby County Government, its elected officials, appointees, employees and members of boards, agencies, and commissions shall be named as additional insured. The insurance shall include coverage for the following:
  - a) Premises/Operations
  - b) Products/Completed Operations
  - c) Contractual
  - d) Independent Contractors
  - e) Broad Form Property Damage
  - f) Personal Injury and Advertising Liability

- g) Cyber Liability-minimum limit \$500,000
- 2) *Business Automobile Liability Insurance* – minimum limit of \$1,000,000 each accident for property damage and bodily injury. Coverage is to be provided on all:
  - a) Owned/Leased Autos
  - b) Non-owned Autos
  - c) Hired Autos
- 3) *Workers Compensation and Employers' Liability Insurance* – Including coverage sole proprietors, partners, and officers, regardless of requirement by Tennessee State Statute. Policy is to be specifically endorsed to include these individuals for coverage. Employers Liability Coverage is \$1,000,000 per accident. The Workers' Compensation policy shall include form WC 00 03 13, or its equivalent, waiving subrogation rights against Shelby County, its elected officials, appointees, and employees.
- 4) *Professional Liability/Errors & Omissions Insurance* – minimum of \$1,000,000 per claim or occurrence/\$3,000,000 annual aggregate. Indicate if coverage is on occurrence basis or claims-made basis.
- 5) A performance bond in the amount of 50% of the amount of the contract is required from the successful contractor.

Upon termination or cancellation of any claims-made coverage currently in effect under this agreement, the contractor shall purchase an extended reporting endorsement and furnish evidence of same to the county.

All policies will provide for thirty (30) days written notice to Shelby County of cancellation of coverage provided. Ten (10) days notice is applicable to non-payment of premium. If the insurer is not required by the policy terms and conditions to provide written notice of cancellation to Shelby County, the Provider will provide immediate notice to Shelby County.

All insurance policies maintained by the Provider shall provide that insurance as applying to Shelby County shall be primary and non-contributing irrespective of such insurance or self-insurance as Shelby County may maintain in its own name and on its own behalf.

Any insurance company of the Provider shall be admitted and authorized to do business in the State of Tennessee and shall carry a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" and a Financial Size Category of "X".

## **B. Right to Monitor and Audit**

Access to Records. During all phases of the work and services to be provided hereunder the Contractor agrees to permit duly authorized agents and employees of the County, to enter the Contractor's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The Contractor will maintain all books, documents, papers, accounting records, and other

evidence pertaining to the fee paid under this Contract and make such materials available at their offices at all reasonable times during the period of this Contract and for three (3) years from the date of payment under this Contract for inspection by the County or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested.

## **XI. PROPOSAL SUBMISSION**

### **A. GENERAL**

1. All interested and qualified Proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the Proposer has read and understands this entire RFP, including all attachments, exhibits, schedules, and addenda (as applicable) and all concerns regarding this RFP have been satisfied.
2. Proposals must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc. are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
3. Proposals must be complete in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.
4. **Hard copy proposals must be received by no later than 4:00 pm (CST) on Friday, April 5, 2013, at Shelby County Government Purchasing Department, 160 N. Main St., Suite 550, Memphis, TN 38103.**
5. Proposer agrees to provide the County with any additional information it deems necessary to accurately determine their ability to perform the services proposed. Furthermore, submission of this proposal constitutes permission by this organization for the County to verify all information contained in the proposal. Failure to comply with any request for additional information may disqualify this organization from further consideration. Such additional information may include evidence of financial ability to perform.

### **B. PROPOSAL PRESENTATION**

1. One (1) original (clearly identified as original) and four (4) copies and a digital CD of the proposal are required.
2. The package containing the original and copies must be sealed and marked with the Proposer's name and **"CONFIDENTIAL, HP NONSTOP HARDWARE AND SOFTWARE SUPPORT, "RFP # 13-003-55,"** with due date and time indicated.
3. Proposals must be in ink. Erasures and "white-out" are not permitted. Mistakes may be crossed out, corrections typed adjacent and initialed in ink by the person signing the

proposal. Please identify all attachments, literature and samples, etc., with your firm name and our bid number.

4. Proposals must be verified before submission as they cannot be withdrawn or corrected after being opened. The County will not be responsible for errors or omissions on the part of bidders in making up their proposals. A responsible officer or employee must sign proposals. Tennessee sales tax shall not be included in the Consultant's proposal.

## C. PROPOSAL FORMAT

Response to this RFP must be in the form of a proposal package that must be submitted in the following format: **Please download the attachment to this document.** The Proposal Response Sheet (*required documents*) should be the first two pages of your written response.

1. Cover Page – Submit on letterhead stationary, signed by a duly authorized officer, employee, or agent of the organization/firm.
2. Comprehensive Response
  - a. Outline of how respondent can meet or exceed the minimum requirements.
  - b. Detail of how the respondent is qualified to provide the services required.
  - c. A detailed description of the approach for accomplishing the services (include a time schedule for completion of each element).
3. Cost and Fees
  - a. Provide the applicable itemized fees and any commissions included in the proposal for the Services for each element in the scope of work (this includes a breakdown of the cost proposed for any sub-contractor working in conjunction with your organization on the project).
  - b. Explain any assumptions or constraints in a price proposal to perform the services.
  - c. Explain any additional charges or fees in the proposal.
  - d. Adhere to the requirements of the “Living Wage Ordinance #328,” Section VI, Item i.
4. Experience of the Respondent.

A sufficient description of the experience and knowledge base of the Proposers to

show the Proposers capabilities should be included in the Proposal. At a minimum, the description of the experience and knowledge base of the Proposers included in the Proposal should include, but not necessarily be limited to, the following:

- a. A brief description of the history and mission of the Proposers, including the Respondent's background and mission statement, the length of time the Proposers has been in business, a description of the Proposers organizational structure and a description of the Proposers customer make-up;
- b. A statement of how long the Proposers has provided services similar to the services requested herein;
- c. A general description of the Proposers experience and background in providing services similar to the Services requested herein;
- d. Any other relevant information about the experience and knowledge base of the Proposers which is deemed to be material.

5. References

References of the Proposer, including at least three (3) other clients for whom the Proposer has provided services similar to the Services (with preference given to clients comparable to Shelby County Government) and, for each such reference, the business name, the identification of a contact person, the title of the contact person and a telephone number.

6. Additional Information

- a. A description of any other resources available to the Proposer that will be useful in providing the Services;
- b. A description of the methods used by the Proposer to measure the satisfaction of its client.
- c. Any other relevant information about the capabilities of the Proposer deemed to be material.

## **XII. PROPOSAL EVALUATION AND SELECTION**

### **A. EVALUATION PROCESS**

- 1. Initial Review – All proposals will be initially evaluated to determine if they meet the following minimum requirements:
  - a. The proposal must be complete, in the required format, and be in compliance with all the requirements of the RFP.

- b. Proposers must meet the Minimum Proposer Requirements outlined in Section II of this RFP.
- 2. Technical Review- Proposals meeting the above requirements will be evaluated based on the following criteria:
  - a. Each proposal will be reviewed by a special Committee, appointed by the Information Technology Services department, which may elect to schedule a personal presentation and interview with one or more of the proposers. After the review process is completed, this committee will recommend the successful proposer to the Purchasing Administrator, who makes the decision, subject to the approval of the contract by the Mayor.
  - b. The committee will assess the proposals for this project. Based on the cores, comments, and recommendations of the committee members, the committee will select a short list of firms for interviews. Evaluation criteria to include:
    - i. Understanding of the Services required by the County;
    - ii. Quality and responsiveness of the proposal;
    - iii. Quality and availability of staff assigned to the project;
    - iv. Background and related experience of the individuals assigned to this project ;
    - v. Recent experience on similar projects
    - vi. Proposed cost to the County

Once the technical proposal is discussed and ranked, the cost proposal will be reviewed for consistency with, and in light of, the evaluation of the technical proposal. The Information Technology Services reserves the right to seek clarification of any proposal submitted and to select the proposal considered to best promote the public interest. The selection committee will submit the results in order of preference to Purchasing for final acceptance.

### 3. Oral Presentation

The Shelby County Government reserves the right to interview, or requires an oral presentation from, any respondent for clarification of information set forth in the Proposer's response. In this regard, at the discretion of the evaluation committee, some or all Proposers who submit a Proposal in response to this RFP may be asked to submit to an interview or give an oral presentation of their respective Proposals to the evaluation committee. If so, this is not to be a presentation restating the Proposal, but rather an in-depth analysis of certain qualifications of the Proposer. The interview or oral presentation, if utilized, is intended to provide an opportunity for the Proposer to clarify or elaborate on its qualifications without restating the Proposal. The interview or oral presentation is to be a fact finding and explanation session only and is not to be used to negotiate any terms of contract. If required, the time and location of such interview or oral presentation will be scheduled by the Administrator of Purchasing. Interviews and oral presentations are strictly an option of the Shelby County Government or it's evaluation committee and, consequently, may or may not be conducted. All travel expenses to and from the interview or oral presentation shall be the

responsibility of the Proposer. Selection will be based on determination of which proposal best meets the needs of the County and the requirements of this RFP.

***Shelby County Government reserves the right to consider the vendor's EOC rating in all evaluations.***

## **B. CONTRACT AWARD**

Contract(s) will be awarded based on a competitive selection of proposals received. Proposers are advised that the lowest cost proposal will not necessarily be awarded the Contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor. The proposals submitted will be evaluated by the County. All decisions are made at the discretion of the County.

The contents of the proposal of the successful Proposer will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

The County reserves the right to negotiate any portions of the successful Proposer's fees and scope of work or utilize their own resources for such work.

# ATTACHMENT I

Hardware Pricing Sheet (Page 1 of 1)

Two systems, **49551** and **37992** listed below.

<b>SYSTEM # 49551 SHELBY COUNTY GOVT</b>				
<b>PRODUCT</b>	<b>PRODUCT</b>		<b>Maintenance</b>	<b>Extended</b>
<b>NUMBER</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>Unit Cost</b>	<b>Cost</b>
1961-B	S7600 PROCESSOR WITH 1 GB	16	\$	\$
3861	SERVERNET-ETHERNET CONTRO	2	\$	\$
3863	SERVERNET FESA	6	\$	\$
3880	SERVERNET WIDE AREA NET C	1	\$	\$
4609	8.8 GB 10,000 RPM S-SERIE	22	\$	\$
4619	18GB 15K RPM DISK DRIVE F	26	\$	\$
4637	36GB 10K RPM DISK DRIVE	20	\$	\$
5529	LINE PRINTER, 1400 LPM, C	3	\$	\$
6750M	MODULAR SEB BASE UNIT	16	\$	\$
6750M-C	SERIAL COPPER PIC, SERVER	40	\$	\$
7190	S-SERIES ENCLOSURE (CABIN	8	\$	\$
7360	S-SERIES POWER SHELF	8	\$	\$
S7X-NSC4	NONSTOP SYS CONSOLE WITH	1	\$	\$
	Total			\$ -

<b>SYSTEM # 37992 SHELBY COUNTY GOVT</b>				
<b>PRODUCT</b>	<b>PRODUCT</b>		<b>Maintenance</b>	<b>Extended</b>
<b>NUMBER</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>Unit Cost</b>	<b>Cost</b>
1960-A	S7400 PROCESSOR WITH 512M	6	\$	\$
3861	SERVERNET-ETHERNET CONTRO	2	\$	\$
4604	S-SERIES 4.2 GIGABYTE INT	14	\$	\$
4609	8.8 GB 10,000 RPM S-SERIE	30	\$	\$
4637	36GB 10K RPM DISK DRIVE	4	\$	\$
5158ACL	DLT7000 WITH ACL TABLE TO	1	\$	\$
6750	SERVERNET EXPANSION BOARD	6	\$	\$
7190	S-SERIES ENCLOSURE (CABIN	3	\$	\$
7360	S-SERIES POWER SHELF	3	\$	\$
S7X-PC3D	S-SERIES TSM CONSOLE (DES	1	\$	\$
	Total			\$ -



# ATTACHMENT II

Software Pricing Sheet (Page 1 of 2)

Two systems, **49551** and **37992** listed below.

SYSTEM # 49551 SHELBY COUNTY GOVT				
Current OS Version G06.21				
PRODUCT	PRODUCT		Maintenance	Extended
NUMBER	DESCRIPTION	QTY	Unit Cost	Cost
9189	NETBATCH PLUS	1	\$	\$
9750	SAFEGUARD	1	\$	\$
SA30	PERFORMANCE MGMT BNDL (HOST)	1	\$	\$
SA31V3	PERFORMANCE MANAGEMENT BUNDLE	1	\$	\$
SA57	EXPAND	1	\$	\$
SB70	NATIVE COBOL COMPILER & RUNTIME	1	\$	\$
SB73	NATIVE C COMPILER - S SERIES	1	\$	\$
SB79	TNS (CISC) C - S SERIES	1	\$	\$
SB80	COBOL85 COMPILER & RUNTIME S-SERIES	1	\$	\$
SD07V1	ENHANCED TN3270 SERVER	1	\$	\$
SD70	TCP/IP LAN PRINT SPOOLER	1	\$	\$
SE07	TANDEM RELOAD ANALYZER	1	\$	\$
SJ08V1	NONSTOP ODBC SERVER RELEASE 2	1	\$	\$
SJ82V1B	NONSTOP JDBC TYPE 4 DRIVER-50 USER	1	\$	\$
SN73	STANDARD S-SERIES OS PACKAGE		\$	\$
SR53	PATHWAY W/ TS/MP (PER CPU 1-4)	4	\$	\$
SR54	PATHWAY W/ TS/MP (PER CPU 5-16)	12	\$	\$
SR90	NONSTOP SQL: (PER CPU#1-4)	4	\$	\$
SR91	NONSTOP SQL: (PER CPU#5-16)	12	\$	\$
	Total			\$ -

# ATTACHMENT II

Software Pricing Sheet (Page 2 of 2)

<b>SYSTEM # 37992 SHELBY COUNTY GOVT</b>				
Current OS Version G06.21				
<b>PRODUCT</b>	<b>PRODUCT</b>		<b>Maintenance</b>	<b>Extended</b>
<b>NUMBER</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>Unit Cost</b>	<b>Cost</b>
9189	NETBATCH PLUS	1	\$	\$
SA30	PERFORMANCE MGMT BNDL (HOST)	1	\$	\$
SA31V2	PERFORMANCE MGT BUNDLE V2	1	\$	\$
SA57	EXPAND	1	\$	\$
SB16C	NATIVE COBOL FOR S-SERIES: 25	1	\$	\$
SB91A	COBOL85 RTL FOR S-SERIER: 5	1	\$	\$
SD08	GUARDIAN TN3270 SERVER	1	\$	\$
SD70	TCP/IP LAN PRINT SPOOLER	1	\$	\$
SN01V1D	NONSTOP ODBC R2 SVR INIT 50 USER	1	\$	\$
SN53D	PATHWAY W/ TS /MP INIT 50 USER	1	\$	\$
SN73	STANDARD S-SERIES OS PACKAGE	1	\$	\$
SN85	NS VIRT HOMETERM-CA-UNICENTER	1	\$	\$
SN90D	NONSTOP SQL/MP INITIAL 50 USER	1	\$	\$
	Total			\$ -